



COM/GSH/mef 3/19/2021

FILED
03/19/21
09:28 AM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement
Senate Bill 1376 Requiring Transportation
Network Companies to Provide Access for
Persons with Disabilities, Including
Wheelchair Users who need a Wheelchair
Accessible Vehicle.

Rulemaking 19-02-012

**ASSIGNED COMMISSIONER'S AMENDED TRACK 4
SCOPING MEMO AND RULING**

This Amended Scoping Memo and Ruling (Amended Scoping Memo) amends the previously issued Scoping Memo and Ruling (Scoping Memo) in this proceeding to designate the scope and schedule of Track 4. Except as expressly set forth in this Amended Scoping Memo, the terms of the previously issued Scoping Memo remain unchanged.

1. Background

The Assigned Commissioner's Scoping Memo, issued on May 7, 2019, identified the issues to be addressed in this proceeding and established three tracks for the issues in this proceeding (Tracks 1, 2, and 3). On August 15, 2019, an Amended Scoping Memo was issued that added issues to Track 2 and modified the Track 2 schedule. On April 21, 2020, an Amended Track 3 Scoping Memo was issued that set forth the schedule and scope for Track 3.

Issues scoped as Track 1 were addressed in Decision (D.) 19-06-033. Issues scoped as Track 2 were addressed in D.20-03-007. Issues scoped as Track 3 were addressed in D.21-03-005.

2. Track 4 Issues

In D.21-03-005, the Commission raised additional issues to be addressed in Track 4 or did not address some Track 3 issues, which are therefore carried over into Track 4. Any proposals filed in Track 4 must be put forth with sufficient specificity for the Commission to consider and to allow parties adequate opportunity to comment.

The following issues are designated as Track 4:

1. Transportation Network Company (TNC) Offset Requirements.
 - a. Modifications to the Offset Time Standard. In D.20-03-007, the Commission adopted interim wheelchair accessible vehicle (WAV) response times and an interim Offset Time Standard. The decision stated:

“The Commission will evaluate WAV response times in one year, after at least three quarters of response time data have been submitted by TNCs, and will issue a subsequent decision establishing the Offset Time Standards for future years.”¹

The decision authorized the Consumer Protection and Enforcement Division (CPED) to provide a report evaluating “at least three quarters of WAV response times and percentage standards, including the number of TNCs that have qualified for an offset, the qualifying Offset Time Standard, and recommendations on

¹ D.20-03-007 at 18.

modifications to the WAV response times and Offset Time Standard.”²

- i. In consideration of CPED’s report, what modifications should be made to the interim standards?
- b. In addition to the requirements adopted in D.20-03-007 and D.21-03-005, what additional metrics should be adopted to demonstrate “improved level of service,” if any (e.g., service area expansion, increased WAV availability)?
- c. Modifications to Trip Completion Standard. In D.21-03-005, the Commission adopted the Trip Completion Standard as an additional metric to demonstrate “improved level of service.” The Commission found insufficient record to adopt a minimum percentage or increasing benchmarks and stated:

“The Commission believes that before adopting a minimum standard, it is prudent to first evaluate actual WAV trip completion rates by geographic area and over a longer period of time than currently available data to better understand an appropriate minimum requirement.”³

The decision directed CPED to submit a report in December 2021 that analyzes the Trip Completion Standard by geographic area based on data submitted by TNCs.⁴

- i. Should the Trip Completion Standard be modified to include a minimum baseline percentage or increasing benchmarks? Should the Trip

² *Id.*

³ D.21-03-005 at 11-12.

⁴ *Id.* at 13.

Completion Standard take into account the Response Time Standards, and if so, how?

- d. Some requirements adopted in D.20-03-007 and D.21-03-005 require TNCs to demonstrate quarter-over-quarter improvement of the percentage of trips completed, including the Trip Completion Standard and the Offset Time Standard.⁵ How should the Commission evaluate these requirements if a TNC approaches or reaches a 100% trip completion rate?
- e. In D.21-03-005, the Commission stated that “fares paid by passengers are not included on the list of eligible offset expenses, attached as Appendix A to D.20-03-007.”⁶ What clarifications, if any, should be made with respect to the exclusion of passenger fares from eligible offset expenses?

2. Access Fund Disbursement.

- a. Non-Regulated Carriers. In D.21-03-005, the Commission adopted an interim rule that Access Provider disbursement is limited to “a transportation carrier that holds a Commission-issued permit prior to applying to become an Access Provider.”⁷ The decision stated:

“The Commission would like to consider the disbursement of Access Fund moneys to non-regulated entities without requiring a TCP permit, if the Commission can ensure compliance with safety protocols and other requirements.”⁸

- i. How can the Commission ensure that non-Commission jurisdictional transportation carriers demonstrate compliance with safety requirements akin to the requirements for a

⁵ See D.20-03-007 at Ordering Paragraph 4, D.21-03-005 at Ordering Paragraph 1.

⁶ D.21-03-005 at 17.

⁷ D.21-03-005 at Ordering Paragraph 8.

⁸ *Id.* at 24.

charter-party carrier (TCP) permit? The Commission may consider existing requirements established by non-Commission jurisdictional transportation carriers that may serve as eligible Access Providers.

- ii. For reference, TCP permit holders are subject to general liability insurance minimums depending on the number of passengers, worker's compensation insurance, a 19-point vehicle inspection, drug testing, and others.⁹
 - iii. Consider that an Access Provider may be a new provider developing WAV services for the first time (and potentially not subject to any regulatory entity) or an established provider bolstering existing services. Note that in D.20-03-007, the Commission required that a transportation provider that chooses to use a TNC to provide WAV services shall hold a TCP permit.¹⁰
- b. In D.21-03-005, the Commission stated that it may consider an Access Provider "exception" for smaller TNCs:
- "The Commission would consider whether a smaller TNC may apply as an Access Provider in a geographic area where it operates WAV services and does not meet the offset or exemption requirements."¹¹
- i. Should an Access Provider "exception" be made for smaller TNCs that provide WAV services in a geographic area but do not meet the requirements for an offset or an exemption? If so, how should a

⁹ See

https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Proceedings/General%20Order%20157-E.Final3.pdf

¹⁰ D.20-03-007 at 52.

¹¹ D.21-03-005 at 30.

“smaller TNC” be defined? How should the TNC demonstrate eligibility?

- c. In D.21-03-005, the Commission authorized a TNC to apply as an Access Provider in a geographic area where it does not offer WAV service.¹² Should this requirement be modified so that a TNC that was previously providing WAV service in a geographic area cannot stop providing WAV service in that area in order to apply as an Access Provider? What modification should be adopted?
3. Additional Accessibility Issues.
 - a. What issues, if any, should be addressed related to the accessibility needs of persons with disabilities who do not require WAVs, including but not limited to, the needs of persons with hearing or vision impairments, persons who require the assistance of service animals, and/or ambulatory persons with disabilities? Please provide specific proposals.
 - i. As discussed in D.21-03-005, “[o]nce proposals are submitted, the Commission may determine whether such issues are appropriately considered within this proceeding or in a separate rulemaking.”
 4. Yearly Benchmarks
 - a. As provided in Public Utilities Code § 5440.5(a)(1)(J), yearly benchmarks shall include the “number of users requesting rides versus community WAV demand for each geographic area.” How should “community WAV demand” be determined and defined?
 5. Any other time-sensitive proposals raised by the Consumer Protection and Enforcement Division Staff or parties.

¹² *Id.* at Ordering Paragraph 12.

3. Track 4 Calendar

The Track 4 calendar is adopted as follows:

TRACK 4 CALENDAR	
CPED Report on WAV Response Time Data issued	Late-March 2021
Track 4 proposals due	April 23, 2021
Workshop on Track 4 proposals	Early May 2021
Revised Track 4 proposals due	May 21, 2021
Comments on proposals and workshop	June 4, 2021
Reply comments on proposals and workshop	June 14, 2021
Proposed Decision on Track 4	Q3 2021

The assigned Commissioner or assigned ALJs may modify the schedule as necessary to promote the efficient management and fair resolution of this proceeding.

IT IS RULED that:

1. The scope of Track 4 is set forth above.
2. The schedule for Track 4 is set forth above.
3. Except as expressly set forth in this Amended Scoping Memo and Ruling, the terms of the previously issued Scoping Memo and Ruling remain unchanged.

Dated March 19, 2021, at San Francisco, California.

/s/ GENEVIEVE SHIROMA

Genevieve Shiroma
Assigned Commissioner